

U.S. COURTS
99-41879 JDP
FEE PAID
R#46462

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Attorneys for Conseco Finance Servicing Corp.,
f/k/a Green Tree Financial Servicing Corporation

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

In Re:)	
)	Case No. 99-41879 JDP
VLADIMIR PANIOUCHKINE, dba)	
Pantrans, Inc., and TATYANA)	Chapter 7
PANIOUCHKINE,)	
)	MOTION FOR RELIEF FROM
Debtors.)	AUTOMATIC STAY
_____)	

Conseco Finance Servicing Corp., f/k/a Green Tree Financial Servicing Corporation ("Conseco"), by and through its attorneys of record, Hawley Troxell Ennis & Hawley LLP, hereby moves that Conseco be granted relief from automatic stay pursuant to 11 U.S.C. §362(d) and local rule 4001(d), based upon the following grounds and reasons:

1. On or about the 21st day of April, 1998, Vladimir Paniouchkine and Tatyana Paniouchkine, the Debtors herein, executed a Real Estate Note ("Note"), wherein

Debtors agreed to pay to Conseco the principal sum of \$97,542.26 at a fixed interest rate of 9.00%. Attached hereto as Exhibit A is a true and correct copy of the Note.

2. The Debtors further agreed to make monthly payments pursuant to the terms of the Note in the monthly sum of \$784.85 beginning no later than 45 days after the completion of the construction funding and continuing thereafter for a period of 360 months, of which the principal balance, interest accrued, and all amounts due thereunder became immediately due and payable.

3. On or about the 21st day of April, 1998, the Debtors also executed a Deed of Trust granting a security interest in the property located at 255 Bonnie Drive, Twin Falls, Idaho, more particularly described as:

Lot 21, Block 3, CLINTON EARL NO. 2 SUBDIVISION, Twin Falls County, Idaho, according to the official plat thereof recorded in Book 8 of Plats, page 29, records of Twin Falls County, Idaho.

AND

112.85 feet of vacated Bonny Drive lying adjacent thereto together with that certain 1997, 66 x 26, Brookfield mobile home, Serial Nos. IDFLV04A20408BF13 and IDFLV04B20408BF13 ("Manufactured Home") (collectively referred to as "Real Property"). The Deed of Trust was recorded in Twin Falls county on April 23, 1998, as instrument number 1998007503. Attached hereto as Exhibit B is a true and correct copy of the Deed of Trust.

4. Conseco holds a valid and perfected lien in the Real Property, and is therefore a secured creditor of the Debtors in a first secured position in the Real Property.

5. The Debtors filed a Chapter 13 Plan on December 16, 1999, in which they proposed to pay Consecro directly according to the Note and Deed of Trust. Under the Plan, Consecro is to retain its lien securing the debt owed under the Note and Deed of Trust, until the debt is paid in full.

6. The Debtors have defaulted under the terms of the Deed of Trust, Note and the Chapter 13 Plan. The Debtors have no equity in the Real Property. As of February 17, 2000, the Debtors owe the payoff balance of \$99,013.76. Pursuant to the schedules filed by the Debtors on December 16, 1999, the total fair market value of the property is \$85,000.00.

7. The Debtors have failed to make payments to Consecro in the sum of \$784.85 per month since December 20, 1999. The Debtors are delinquent in the total sum of \$1,569.70. The principal balance continues to accrue interest at the per diem amount of \$23.88.

8. Pursuant to 11 U.S.C. § 362(d)(1), Consecro is entitled to relief from automatic stay for cause based on the lack of adequate protection. The Real Property is in the possession of the Debtors and continues to depreciate in value on a daily basis. The Debtors have failed to make payments to Consecro since December 20, 1999 and are delinquent in the sum of \$1,569.70. The principal balance continues to accrue interest at the per diem amount of \$23.88. Factors constituting a lack of adequate protection include diminishing equity cushion, lack of payments on the debt, a deterioration of the creditors' security position under a priming lien, and the failure of a debtor to pay its secured creditor for a substantial period

of time. *In re Sun Valley Ranches, Inc.* 823 F.2d 1373, 1376 (9th Cir. 1987); *In re Nattchase Associates Ltd. Partnership*, 178 B.R. 409, 416 (Bkrcty. E.D.Va. 1994); *In re LDN Corporation*, 191 B.R. 320, 324 (Bkrcty. E.D.Va. 1996).

9. Furthermore, relief from automatic stay should be granted pursuant to 11 U.S.C. § 362(d)(2), since as set forth above the Debtors do not have equity in the property. Unless this Court permits Consecro to proceed with an action to foreclose on the Real Property, Consecro will suffer great and irreparable damage and injury by reason of the fact that it is not receiving any monthly payments on the Real Property.

10. Based upon the lack of monthly payments and lack of equity in the Real Property, good cause exists to waive the ten (10) day stay period set forth in Federal Bankruptcy Rule 4001.

11. Pursuant to Rule 4001.2 of the Local Bankruptcy Rules, any party in interest may oppose this motion by filing and serving on the moving party a written objection thereto at least five days prior to the preliminary hearing. The objection shall reasonably identify those matters contained in the motion which are to be at issue, and any other basis for opposition to the motion. Absent the filing of a timely response, the Court may grant the relief sought without a hearing. The written objection need not be filed if the moving party sets a preliminary hearing for less than 20 days after the filing of the motion. However, the opposing party must be prepared to present the information required by this rule at the preliminary hearing.

12. Pursuant to Rule 4001.2 of the Local Bankruptcy Rules and 11 U.S.C.

§ 362(e),

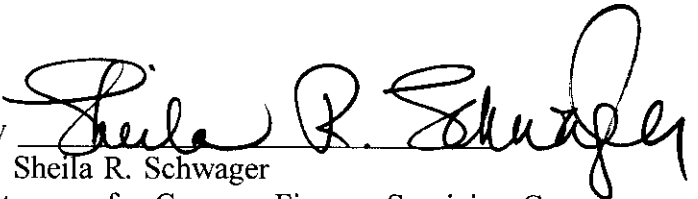
30 days after a request under subsection (d) of this section [362] for relief from the stay of any act against property of the estate under subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the Court, after notice and a hearing, orders such stay continued in effect pending the conclusion of, or as a result of, a final hearing and determination under subsection (d) of this section.

WHEREFORE Conseco prays that Conseco be granted relief from automatic stay as to the Real Property so that it may foreclose upon its security interest pursuant to state law, and that it have such other and further relief as is just.

DATED THIS 19th day of April, 2000.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By



Sheila R. Schwager

Attorneys for Conseco Finance Servicing Corp.,
f/k/a Green Tree Financial Servicing Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of April, 2000, I caused to be served a true copy of the foregoing MOTION FOR RELIEF FROM AUTOMATIC STAY by the method indicated below, and addressed to each of the following:

Vladimir Paniouchkine
Tatyana Paniouchkine
255 Bonnie Drive
Twin Falls, ID 83301

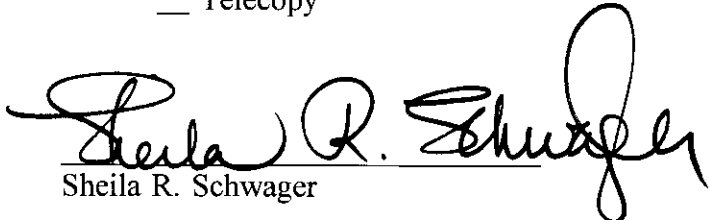
☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy

Jay D. Sudweeks, Esq.
May Sudweeks Stubbs Kershaw &
Rowning
P.O. Box 1846
Twin Falls, ID 83301

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy

Sam Hopkins
Chapter 7 Trustee
P.O. Box 3014
Pocatello, ID 83201

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy


Sheila R. Schwager

GT-15-12-01: (10/97)

GREEN TREE FINANCIAL SERVICE
CORPORATION
290 BOBWHITE COURT #260
BOISE, ID 83706

TATYANA PANIOUCHKINE
VLADIMIR PANIOUCHKINE
SEE LEGAL
TWIN FALLS, ID 83301

LENDER'S NAME AND ADDRESS

"You" means the Lender,
its successors and assigns.

BORROWER'S NAME AND ADDRESS

"I" includes each Borrower above,
jointly and severally.

Loan Number _____
Date _____
Maturity Date _____
Loan Amount \$ 97542.26
Renewal Of _____

TERMS FOLLOWING A _____ APPLY ONLY IF CHECKED

For value received, I promise to pay to you at your address listed above the **PRINCIPAL** sum of _____
NINETY SEVEN THOUSAND FIVE HUNDRED FORTY TWO AND 26/100 DOLLARS Dollars \$ 97542.26

☐ **Single Advance:** I will receive all of this principal sum on _____. No additional advances are contemplated under this note.

☒ **Multiple Advance:** The principal sum shown above is the maximum amount of principal I can borrow under this note. On date of first advance _____ I will receive the amount of \$ 15000 (land value) and future principal advances are contemplated. You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).

Conditions: The conditions for future advances are 1st advance(adv): real property appraisal & legal permits; 2nd adv: land improvement invoices, lien waivers, customer advance authorization ("CAA"); 2nd or 3rd adv: home & setup & CAA; final adv: certificate of occupancy or inspection report & CAA.

INTEREST: I agree to pay interest on the outstanding principal balance from date of first advance. at the rate of 9.00 % per year until the principal balance is fully paid.

N/A Variable Rate: This rate may then change as stated below.

Change Dates: Each date on which the interest rate may change is called a Change Date. The interest rate may change _____ and on every _____ thereafter.

The Index: Beginning with the first Change Date, the interest rate will be based on the following Index: _____

Prepayment Refund: I may prepay all or part of this note without penalty. If I prepay in full, you will refund part of the finance charge.

The most recent Index value available as of the date 45 days before each Change Date is called the "Current Index."

Calculation of Change: Before each Change Date, the Lender will calculate the interest rate, which will be _____ the Current Index. The result of this calculation will be rounded _____.

The new interest rate will become effective on each Change Date. Subject to any limitations below, this will be the new interest rate until the next Change Date.

Limitations: The interest rate will never be greater than _____ % or less than _____ %.

The interest rate will never change on any single Change Date by more than _____ %.

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:

The amount of each scheduled payment will change. The amount of the final payment will change.

ACCRUAL METHOD: Interest will be calculated on a simple interest basis.

☒ **LATE CHARGE:** I agree to pay a late charge on the portion of any payment made more than 15 days after it is due equal to 5% of the unpaid amount, or \$5.00, whichever is greater.

☐ **ADDITIONAL CHARGES:** In addition to interest, I agree to pay the following charges which _____ are _____ are not included in the principal amount above:

PAYMENTS: I agree to pay this note as follows:

INTEREST: I agree to pay accrued interest during the construction

period on a monthly basis on cumulative amounts advanced, and principal & interest monthly thereafter until the contract is fully paid.

PRINCIPAL: I agree to pay the principal in 360 monthly installments, beginning no later than 45 days after the completion of the construction funding period.

INSTALLMENTS: I agree to pay this note in 360 payments.* The first payment will be in the amount of \$ 784.85 (principal & interest) and will be due approx. 30 days from final disbursement. A payment of \$ 784.85 will be due monthly thereafter. The final payment of the entire unpaid balance of principal and interest will be due 360 months from last construction disbursement.

* The payment schedule is in addition to and shall begin subsequent to the construction period interest only payments.

In addition to the payments described above, I will pay a "balloon payment" of \$ _____ on

EXHIBIT A

SECURITY: This note is secured by (describe separate document by type (e.g., deed of trust) and date):

ADDITIONAL TERMS: ANY UNDISBURSED PORTIONS OF THE AMOUNT FINANCED HEREIN SHALL BE APPLIED TO THE PRINCIPAL BALANCE OF THE CONTRACT. THIS WILL NOT REDUCE MY MONTHLY PAYMENT AMOUNT ON THE CONTRACT, BUT WILL REDUCE THE TOTAL NUMBER OF MONTHS I MUST PAY THE CONTRACT.

ADDITIONAL TERMS OF THE NOTE

GENERALLY - The headings at the beginning of each section are for convenience only and are not to be used in interpreting the text of the section.

DEFINITIONS - "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agree to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

APPLICABLE LAW - This note and any agreement securing this note will be governed by the laws of the state of Idaho. The fact that any part of this note cannot be enforced will not affect the rest of this note. Any change to this note or any agreement securing this note must be in writing and signed by you and me.

I agree to cooperate with you regarding any requests after closing to correct errors made concerning this contract or the transaction and to provide any and all additional documentation deemed necessary by you to complete this transaction. I agree that you may enforce this agreement by judicial process and are entitled to attorney's fees, costs and disbursements incident to such enforcement.

PAYMENTS - Unless otherwise required by law, each payment I make on this loan will be applied first to any charges I owe other than principal and interest, then to interest that is due, and finally to principal that is due. The actual amount of my final payment will depend on the interest rates (if variable) and my payment record. If any payment due under this loan does not equal or exceed the amount of interest due, you may, at your option, increase the amount of the payment due and all future payments to an amount that will pay off this loan in equal payments over the remaining term of this loan, subject to any balloon payment indicated in the PAYMENTS section on page 2.

PREPAYMENT - I may prepay this loan in whole or in part at any time. If I prepay in part, I must still make each later payment in the original amount as it becomes due until this note is paid in full.

BALLOON PAYMENT - If any scheduled payment of a consumer loan, other than one primarily for an agricultural purpose or one secured primarily by a first lien on residential real estate, is more than twice as large as the average of all other regularly scheduled payments, I may refinance that payment when due at your prevailing rates for such type of loan if I meet your normal credit standards and you are, at the time, in the business of making such loans. This paragraph does not apply to the extent the payment schedule is adjusted to the seasonal or irregular

income or to a transaction providing for periodic payments of interest only that are sufficient to pay accrued interest.

INTEREST - Interest accrues on the principal remaining unpaid from time to time, until paid in full. If "Variable Rate" is checked on page 1, I will pay interest at the rates in effect from time to time. The interest rate(s) and other charges on this loan will never exceed the highest rate or charge allowed by law for this loan. If the index specified on page 1 ceases to exist, I agree that you may substitute a similar index for the original.

INDEX - If you and I have agreed that the interest rate on this note will be variable and will be related to an index, then the index you select will function only as a tool for setting the rate on this note. You do not guaranty, by selecting any index, that the interest rate on this note will have a particular relationship to the interest rate you charge on any other loans or any type or class of loans with your other customers.

ACCRUAL METHOD - The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1. For interest calculation, the accrual method will determine the number of days in a year. If no accrual method is stated, then you may use any reasonable accrual method for calculating interest.

SINGLE ADVANCE LOANS - If this is a single advance loan you and I expect that you will only make one advance of principal. However, you may add other amounts to the principal if you make any payments described in the PAYMENTS BY LENDER section below.

MULTIPLE ADVANCE LOANS - If this is a multiple advance loan, you and I expect that you will make more than one advance of principal, subject to the conditions of any separate agreement.

PAYMENTS BY LENDER - If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may treat those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

REAL ESTATE OR RESIDENCE SECURITY - If this loan is secured by real estate or a residence that is personal property, the existence of a default and your remedies for such a default will be determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by this agreement.

58401584

ASSUMPTION - This note and any document securing it cannot be assumed by someone buying the secured property from me. This will be true unless you agree in writing to the contrary. Without such an agreement, if I try to transfer any interest in the property securing this note, I will be in default on this loan. You may proceed against me under any due on sale clause in the security agreement, which is incorporated by reference.

DEFAULT - Subject to any limitations in the "REAL ESTATE OR RESIDENCE SECURITY" paragraph above, I will be in default on this loan and any agreement securing this loan if:

- (a) I fail to make a payment as required by this loan; or
- (b) You believe that the prospect of receiving payment or performance from me or of realizing on the Property is significantly impaired.

If any of us are in default on this note or any security agreement, you may exercise your remedies against any or all of us.

REMEDIES - Subject to any limitations in the "REAL ESTATE OR RESIDENCE SECURITY" paragraph above, if I am in default on this loan or any agreement securing this loan, you may:

- (a) Make unpaid principal, earned interest and all other agreed charges I owe you under this loan immediately due;
- (b) Use the right of set-off as explained below;
- (c) Demand more security or new parties obligated to pay this loan (or both) in return for not using any other remedy;
- (d) Make a claim for any and all insurance benefits or refunds that may be available on my default;
- (e) Use any remedy you have under state or federal law; and
- (f) Use any remedy given to you in any agreement securing this loan.

By choosing any one or more of these remedies you do not give up your right to use another remedy later. By deciding not to use any remedy should I be in default, you do not give up your right to consider the event a default if it happens again.

COSTS OF COLLECTION AND ATTORNEYS' FEES - I agree to pay you all reasonable costs you incur to collect this debt or realize on any security. Unless prohibited by law, this includes the reasonable attorneys' fees you incur after my default, provided the attorney is not your salaried employee. This provision also shall apply if I file a petition or any other claim for relief under any bankruptcy rule or law of the United States, or if such petition or other claim for relief is filed against me by another.

SET-OFF - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (a) Any deposit account balance I have with you;
- (b) Any money owed to me on an item presented to you or in your possession for collection or exchange; and
- (c) Any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand under the terms of this note at the time you set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to

any other amount could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights arise only in a representative capacity. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

OTHER SECURITY - Any present or future agreement securing any other debt I owe you also will secure the payment of this loan. However, property securing another debt will not secure this loan if such property is:

- (a) my principal dwelling and you fail to provide any required notice of right of rescission;
- (b) household goods;
- (c) land and the principal amount of this loan is one thousand dollars or less; or
- (d) real property that you have a secured interest in by first mortgage or first deed of trust.

ARBITRATION - All disputes, claims, or controversies arising from or relating to this contract or the relationships which result from this contract, or the validity of this arbitration clause or the entire contract, shall be resolved by binding arbitration by one arbitrator selected by you with consent of us. This arbitration contract is made pursuant to a transaction in interstate commerce, and shall be governed by the Federal Arbitration Act at 9 U.S.C. Section 1. Judgment upon the award rendered may be entered in any court having jurisdiction. The parties agree and understand that they choose arbitration instead of litigation to resolve disputes. The parties understand that they have a right or opportunity to litigate disputes through a court, but that they prefer to resolve their disputes through arbitration, except as provided therein. **THE PARTIES VOLUNTARILY AND KNOWINGLY WAIVE ANY RIGHT THEY HAVE TO A JURY TRIAL, EITHER PURSUANT TO ARBITRATION UNDER THIS CLAUSE OR PURSUANT TO A COURT ACTION BY YOU (AS PROVIDED HEREIN).** The parties agree and understand that all disputes arising under case law, statutory law, and all other laws including, but not limited to, all contract, tort, and property disputes, will be subject to binding arbitration in accord with this contract. The parties agree and understand that the arbitrator shall have all powers provided by the law and the contract. These powers shall include all legal and equitable remedies, including, but not limited to, money damages, declaratory relief, and injunctive relief. Notwithstanding anything hereunto the contrary, you retain an option to use judicial or non-judicial relief to enforce a mortgage, deed of trust, or other security agreement relating to the real property secured in a transaction underlying this arbitration agreement, or to enforce the monetary obligation secured by the real property, or to foreclose on the real property. Such judicial relief would take the form of a lawsuit. The institution and maintenance of an action for judicial relief in a court to foreclose upon any collateral, to obtain a monetary judgment or to enforce the mortgage or deed of trust, shall not constitute a waiver of the right of any party to compel arbitration regarding any other dispute or remedy subject to arbitration in this contract, including the filing of a counterclaim in a suit brought by you pursuant to this provision.

OBLIGATIONS INDEPENDENT - I understand that my obligation to pay this loan is independent of the obligation of any other person who has also agreed to pay it. You may, without notice, release me or any of us, give up any right you may have against any of us, extend new credit to any of us, or renew or change this note one or more times and for any term, and I will still be obligated to pay this loan. You may, without notice, fail to perfect your security interest in, impair, or release any security and I will still be obligated to pay this loan.

WAIVER - I waive (to the extent permitted by law) demand, presentment, protest, notice of dishonor and notice of protest.

PRIVACY - I agree that from time to time you may receive credit information about me from others, including other lenders and credit reporting agencies. I agree that you may furnish on a regular basis credit and experience information regarding my loan to others seeking such information. To the extent permitted by law, I agree that you will not be liable for any claim arising from the use of information provided to you by others or for providing such information to others.

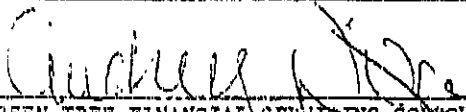
FINANCIAL STATEMENTS - I will give you any financial statements or information that you feel is necessary. All financial statements and information I give you will be correct and complete.

PURCHASE MONEY LOAN - If this is a purchase money loan, you may include the name of the seller on the check or draft for this loan.

PAYMENT BY CHECK - If any payment on this note is made with a check that is dishonored, I agree to pay you a \$20.00 fee.

PURPOSE: The purpose of this loan is construction on
land and home.

Signature for Lender


GREEN TREE FINANCIAL SERVICING CORPORATION

NOTICE TO COSIGNER

You (the cosigner) are being asked to guaranty this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You also may have to pay late fees or collection costs, which increase this amount.

The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become part of *your* credit record.

This notice is not the contract that makes you liable for the debt.

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGES 1, 2, 3 AND 4). I have received a copy on today's date.


TATYANA PANIOUCHKINE


VLADIMIR PANIOUCHKINE

58401584

Debate
605-386-7073

TITLEFACT, Inc.
1000027503

4/16/24 State of Idaho
CT 15-13 090 (11/94)

21.40 SL

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DEED OF TRUST
(With Future Advance Clause)

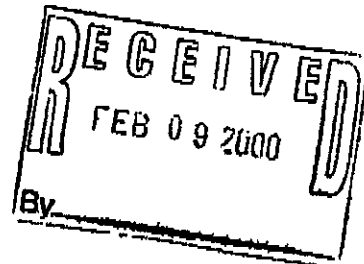
1. **DATE AND PARTIES.** The date of this Deed of Trust (Security Instrument) is
and the parties, their addresses and tax identification numbers, if required, are as follows:

GRANTOR: TATYANA PANIOUCHKINE and VLADIMIR PANIOUCHKINE
SEE LEGAL
TWIN FALLS, ID 83301

.....If checked, refer to the attached Addendum incorporated herein, for additional Grantors, their
signatures and acknowledgments.

TRUSTEE: Alliance Title & Escrow Corporation

LENDER: GREEN TREE FINANCIAL SERVICING CORPORATION
290 BOBWHITE COURT #250
BOISE, ID 83706



2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is
acknowledged, and to secure the Secured Debt (defined below) and Grantor's performance under this
Security Instrument, Grantor irrevocably grants, bargains, sells and conveys to Trustee, in trust for the
benefit of Lender, with power of sale, the following described property:

All of the property located at SEE LEGAL, in the
City/Town/Village of TWIN FALLS, County of TWIN FALLS, State of ID, in
which the Borrower has an ownership, leasehold or other legal interest. ** Continue on Page 2

The property is located in TWIN FALLS at

SEE LEGAL (Address) TWIN FALLS (City) Idaho 83301 (ZIP Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all
water and riparian rights, ditches, and water stock and all existing and future improvements,
structures, fixtures, and replacements that may now, or at any time in the future, be part of the real
estate described above (all referred to as "Property").

EXHIBIT B

** This property is more particularly described on the schedule titled "Additional Property Description" which is attached hereto as Exhibit A, together with a security instrument in that certain 1997, 66 X 26 BF9663U m. also home, serial number #

The Borrower does hereby authorize the Lender or its assigns to obtain a more detailed property description after the Borrower has signed the Mortgage, and to attach Exhibit A after the Borrower has signed the Mortgage.

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 275,421.26. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:

A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(s) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. (When referencing the debts below it is suggested that you include items such as borrowers' names, note amounts, interest rates, maturity dates, etc.)

A Universal Note or Manufactured Home Retail Installment Contract and Security Agreement executed by Buyers/Borrowers.

The above obligation is due and payable on 360 months from last construction disbursement if not paid earlier.

B. All future advances from Lender to Grantor or other future obligations of Grantor to Lender under any promissory note, contract, guaranty, or other evidence of debt executed by Grantor in favor of Lender executed after this Security Instrument whether or not this Security Instrument is specifically referenced. If more than one person signs this Security Instrument, each Grantor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Grantor, or any one or more Grantor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.

C. All obligations Grantor owes to Lender, which may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Grantor and Lender.

D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

This Security Instrument will not secure any other debt if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Grantor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.

6. **WARRANTY OF TITLE.** Grantor warrants that Grantor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to irrevocably grant, bargain, sell and convey the Property to Trustee, in trust, with power of sale. Grantor also warrants that the Property is unencumbered, except for encumbrances of record.

7. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Grantor agrees:

A. To make all payments when due and to perform or comply with all covenants.

B. To promptly deliver to Lender any notices that Grantor receives from the holder.

C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

8. **CLAIMS AGAINST TITLE.** Grantor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Grantor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Grantor's payment. Grantor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Grantor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Grantor may have against parties who supply labor or materials to maintain or improve the Property.

9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Security Instrument is released.
10. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Grantor will keep the Property in good condition and make all repairs that are reasonably necessary. Grantor shall not commit or allow any waste, impairment, or deterioration of the Property. Grantor will keep the Property free of noxious weeds and grasses. Grantor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Grantor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Grantor will notify Lender of all demands, proceedings, claims, and actions against Grantor, and of any loss or damage to the Property. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Grantor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Grantor will in no way rely on Lender's inspection.
11. **AUTHORITY TO PERFORM.** If Grantor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Grantor appoints Lender as attorney in fact to sign Grantor's name or pay any amount necessary for performance. Lender's right to perform for Grantor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.
12. **ASSIGNMENT OF LEASES AND RENTS.** Grantor irrevocably grants, bargains, sells and conveys to Trustee, in trust for the benefit of Lender, as additional security all the right, title and interest in and to any and all existing or future leases, subleases, and any other written or verbal agreements for the use and occupancy of any portion of the Property, including any extensions, renewals, modifications or substitutions of such agreements (all referred to as "Leases") and rents, issues and profits (all referred to as "Rents"). Grantor will promptly provide Lender with true and correct copies of all existing and future Leases. Grantor may collect, receive, enjoy and use the Rents so long as Grantor is not in default under the terms of this Security Instrument.
- Grantor agrees that this assignment is immediately effective between the parties to this Security Instrument. Grantor agrees that this assignment is effective as to third parties on Grantor's default when Lender or Trustee takes affirmative action prescribed by law in the State of Idaho. Unless otherwise prohibited or prescribed by state law, Grantor agrees that Lender or Trustee may take actual possession of the property without the necessity of commencing any legal action or proceeding and Grantor agrees that actual possession is deemed to occur when Lender, or its agent, notifies Grantor of default and demands that Grantor and Grantor's tenants pay all Rents due and to become due directly to Lender. Immediately after Lender gives Grantor the notice of default, Grantor agrees that either Lender or Grantor may immediately notify the tenants and demand that all future Rents be paid directly to Lender. On receiving notice of default, Grantor will endorse and deliver to Lender any payment of Rents in Grantor's possession and will receive any Rents in trust for Lender and will not commingle the Rents with any other funds. Any amounts collected will be applied as provided in this Security Instrument. Grantor warrants that no default exists under the Leases or any applicable landlord/tenant law. Grantor also agrees to maintain and require any tenant to comply with the terms of the Leases and applicable law.
13. **LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** Grantor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Grantor will perform all of Grantor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
14. **DEFAULT.** Grantor will be in default if any party obligated on the Secured Debt fails to make payment when due. Grantor will also be in default if the prospect of payment, performance, or realization of collateral is significantly impaired.
15. **REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Grantor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Grantor is in default.

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At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents, including without limitation, the power to sell the Property.

If there is a default, Trustee shall, in addition to any other permitted remedy, at the request of the Lender, advertise and sell the Property as a whole or in separate parcels at public auction to the highest bidder for cash and convey absolute title free and clear of all right, title and interest of Grantor at such time and place as Trustee designates. Trustee shall give notice of sale including the time, terms and place of sale and a description of the property to be sold as required by the applicable law in effect at the time of the proposed sale.

Upon sale of the property and to the extent not prohibited by law, Trustee shall make and deliver a deed to the Property sold which conveys absolute title to the purchaser, and after first paying all fees, charges and costs, shall pay to Lender all moneys advanced for repairs, taxes, insurance, liens, assessments and prior encumbrances and interest thereon, and the principal and interest on the Secured Debt, paying the surplus, if any, to Grantor. Lender may purchase the Property. The recitals in any deed of conveyance shall be prima facie evidence of the facts set forth therein.

All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Grantor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

16. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS. Except when prohibited by law, Grantor agrees to pay all of Lender's expenses if Grantor breaches any covenant in this Security Instrument. Grantor will also pay on demand any amount incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Grantor agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, attorneys' fees, court costs, and other legal expenses. This amount does not include attorneys' fees for a salaried employee of the Lender. This Security Instrument shall remain in effect until released. Grantor agrees to pay for any recordation costs of such release.

17. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), and all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law.

Grantor represents, warrants and agrees that:

A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance is or will be located, stored or released on or in the Property. This restriction does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property.

B. Except as previously disclosed and acknowledged in writing to Lender, Grantor and every tenant have been, are, and shall remain in full compliance with any applicable Environmental Law.

C. Grantor shall immediately notify Lender if a release or threatened release of a Hazardous Substance occurs on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Grantor shall take all necessary remedial action in accordance with any Environmental Law.

D. Grantor shall immediately notify Lender in writing as soon as Grantor has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the release or threatened release of any Hazardous Substance or the violation of any Environmental Law.

18. CONDEMNATION. Grantor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Grantor authorizes Lender to intervene in Grantor's name in any of the above described actions or claims. Grantor assigns to Lender the proceeds of any award or claim for

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damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

19. **INSURANCE.** Grantor shall keep Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Grantor subject to Lender's approval, which shall not be unreasonably withheld. If Grantor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause." Grantor shall immediately notify Lender of cancellations or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Grantor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Grantor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Grantor.

Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payment nor change the amount of any payment. Any excess will be paid to the Grantor. If the Property is acquired by Lender, Grantor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

20. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Grantor will not be required to pay to Lender funds for taxes and insurance in escrow.

21. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Grantor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Grantor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Grantor's obligations under this Security Instrument and Lender's lien status on the Property.

22. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Grantor signs this Security Instrument but does not sign an evidence of debt, Grantor does so only to mortgage Grantor's interest in the Property to secure payment of the Secured Debt and Grantor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Grantor, Grantor agrees to waive any rights that may prevent Lender from bringing any action or claim against Grantor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Grantor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Grantor's consent. Such a change will not release Grantor from the terms of this Security Instrument. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Grantor and Lender.

23. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Security Instrument is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or implicitly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.

24. **SUCCESSOR TRUSTEE.** Lender, at Lender's option, may from time to time remove Trustee and appoint a successor trustee without any other formality than the designation in writing. The successor trustee, without conveyance of the Property, shall succeed to all the title, power and duties conferred upon Trustee by this Security Instrument and applicable law.

25. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one grantor will be deemed to be notice to all grantors.

26. **WAIVERS.** Except to the extent prohibited by law, Grantor waives all rights to homestead exemption, appraisement and the marshalling of liens and assets relating to the Property.
27. **DECLARATION.** Grantor declares that the Property is either not more than twenty acres in area or that the Property is located within an incorporated city or village.
28. **OTHER TERMS.** If checked, the following are applicable to this Security Instrument:
- Line of Credit. The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
 - ☒ Construction Loan. This Security Instrument secures an obligation incurred for the construction of an improvement on the Property.
 - Fixture Filing. Grantor grants to Lender a security interest in all goods that Grantor owns now or in the future and that are or will become fixtures related to the Property. This Security Instrument suffices as a financing statement and any carbon, photographic or other reproduction may be filed of record for purposes of Article 9 of the Uniform Commercial Code.
 - Riders. The covenants and agreements of each of the riders checked below are incorporated into and supplement and amend the terms of this Security Instrument. [Check all applicable items]
 - Condominium Rider Planned Unit Development Rider Other
 - Additional Terms.

SIGNATURES: By signing below, Grantor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Grantor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

TATYANA PANIOUCHKINE 4/21/98 (Signature) (Date) (Signature) 4/21/98 (Date)

..... (Signature) (Date) (Signature) (Date)

ACKNOWLEDGMENT:

STATE OF IDAHO COUNTY OF TWIN FALLS ss.
 On this 21ST day of APRIL, 1998, before me, a Notary Public, personally appeared TATYANA PANIOUCHKINE AND VLADIMIR PANIOUCHKINE
 (Individual) known or identified to me (or proved to me on the oath of),
 to be the person(s) whose name is subscribed to the within Instrument, and acknowledged to me that she/he/they executed the same.
 My commission expires: 11-28-2002
 (Seal) (Notary Public)

REQUEST FOR RECONVEYANCE
 (Not to be completed until paid in full)

TO TRUSTEE:

The undersigned is the holder of the note or notes secured by this Deed of Trust. Said note or notes, together with all other indebtedness secured by this Deed of Trust, have been paid in full. You are hereby directed to cancel this Deed of Trust, which is delivered hereby, and to reconvey, without warranty, all the estate now held by you under this Deed of Trust to the person or persons legally entitled thereto.

..... (Authorized Bank Signature)

..... Date